

### **REMARKS**

In the June 26, 2003 Office communication, an election of species is required between allegedly patentably distinct Species 1-7 and 10-14. Applicants note that it appears Species 10-14 should have been numbered Species 8-12, however, for purposes of consistency Applicants will refer to Species 10-14. Specifically, the Office communication lists the following proposed species: Species 1 includes Figs. 1 and 7; Species 2 includes Figs. 2 and 8; Species 3 includes Fig. 3; Species 4 includes Fig. 4; Species 5 includes Fig. 5; Species 6 includes Fig. 6; Species 7 includes Fig. 9, Species 10 includes Fig. 10; Species 11 includes Fig. 11; Species 12 includes Fig. 12; Species 13 includes Fig. 13; and Species 14 includes Fig. 14. Applicants provisionally elect with traverse Species 1, Figures 1 and 7. Claims 13, and 15-30 are readable on Species 1.

Applicants respectfully traverse the election of species requirement since (1) the pending claims of this application are method claims and generic to all of the Species 1-7 and 10-14 and Figures 1-14 and (2) the proposed Species and figures designated thereto are improper as not being distinct inventions and as being inconsistent as incorporating the same invention in more than one species.

Currently pending claims 13 and 15-30 are method claims. Claims 13 and 15-20 are directed to a method of connecting two substantially identical cover fittings to a raceway and claims 21-30 are directed to a method of connecting two raceways. Drawing figures are not required when the claimed invention is directed to a method or process. See MPEP § 601.01(f). Therefore, the method claims 13 and 15-30 cannot be directed to patentably distinct species based on drawing figures, as suggested, since drawing figures are not required and particularly since one of ordinary skill in the art could understand the claimed methods without drawing figures.

Moreover, the method claims 13 and 15-30 are generic to each of the Figures 1-14 and are thus each Species 1-7 and 10-14 is readable on all of the method claim 13 and 15-30. For example, independent claim 13 is directed to a method of connecting two substantially identical cover fittings to a raceway including among other elements the step of placing the first cover fitting over a junction point of two raceway bases, the junction point being a miter joint and the step of placing the second cover fitting over a curved base fitting coupled between two raceway bases. Also, independent claim 21 recites a method of connecting two raceways comprising among other elements the steps of joining first and second raceways, coupling a first cover fitting over a first junction area of the first and second raceways, joining the second raceway and a third raceway, and coupling a second cover fitting over a second junction area of the second and third raceways whereby the first and second cover fittings are substantially identical. In addition, independent claim 22 recites a method of connecting two raceways comprising among other elements the steps joining first and second raceways, coupling a first cover fitting over a first junction area of the first and second raceways, joining third and fourth raceways, and coupling a second cover fitting over a second junction area of the third and fourth raceways whereby the first and second cover fittings are substantially identical.

Applicants disclosure describes cover fitting 12, illustrated in Figures 1-8, cover fitting 138, illustrated in Figures 9-11, and cover fitting 200, illustrated in Figures 12-14, as each meeting the above claim limitations of each independent claim 13, 21 and 22. See for example the first paragraph of page 12 of Applicants' disclosure. No drawing is necessary or required to support or understand these claims. The same is true for dependent method claims 15-20 and 23-30. Therefore, since the claims are method claims, relate to all of the drawing figures and no drawing figure is required to support the claims, it is improper to

require an election of species based on Figures 1-14. Furthermore, the claims are generic to all of the figures as demonstrated above and thus any restriction is improper.

Even assuming *arguendo* that the claims could be restricted based on Species 1-7 and 10-14 as proposed, the proposed Species 1-7 and 10-14 are improper and inconsistent. Initially, the proposed Species 1-7 and 10-14 are not distinct inventions as claimed since the claimed invention is a method generic to all of the Figures 1-14, as explained above. Additionally, the proposed Species 1-7 and 10-14 incorporate the same invention in more than one species and therefore are improper. For example, Species 3 is not distinct from Species 1 since Figure 3 of Species 3 is merely an exploded view of Figure 1 of Species 1. Similarly, Species 4 is not distinct from Species 2 since Figure 4 of Species 4 is merely an exploded view of Figure 2 of Species 2. Also, Species 5 is not distinct from Species 1-4 since Figure 5 of Species 5 merely illustrates cover fitting 12 of Figures 1-4 of Species 1-4 and base fitting 14 of Figures 8 and 4 of Species 2 and 4. Species 6 is similarly not distinct from Species 1-4 and is clearly not distinct from Species 5 since Figure 6 of Species 6 is merely the opposite perspective view of Figure 5 of Species 5.

In addition, Species 11 is clearly not distinct from Species 9 and 10 since Figure 11 of Species 11 merely illustrates cover fitting 138 of Figures 9 and 10 of Species 9 and 10 and base fitting 174 of Figure 10 of Species 10. Likewise, Species 14 is clearly not distinct from Species 12 and 13 since Figure 14 of Species 14 merely illustrates covering fitting 200 of Figures 12 and 13 of Species 12 and 13 and base fitting 240 of Figure 13 of Species 13.

In view of the foregoing, the election of species requirement between Species 1-7 and 10-14 is improper and should be withdrawn since all of the claims are method claims and generic to all of the Figures 1-14. Prompt and favorable action is respectfully solicited.

Respectfully submitted,

Tara L. Hoffman

Tara L. Hoffman

Reg. No. 46,510

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.

1300 19th Street, N.W., Suite 600

Washington, D.C. 20036-1649

(202 659-9076

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